

# Steve Zissou & Associates

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March 17, 2017

## BY ECF

Hon. P. Kevin Castel  
United States District Judge  
United States Courthouse  
500 Pearl Street  
New York, NY 10007-1312

Re: *United States v. Jon Cruz*  
Criminal Docket # 15-338 (PKC)

Dear Judge Castel:

For the reasons set forth below, I write to request that the sentence hearing in this case be rescheduled to a date during the week of June 26, 2017.

## Background

On March 6, 2015, Mr. Cruz was arrested by federal agents and charged in a criminal complaint alleging various offenses including the production of child pornography in violation of 18 USC 2251. Following the filing of an Indictment that charged the same range of offenses, on September 23, 2016, Mr. Cruz entered a guilty plea to Count Two of the above-referenced Indictment. Count Two charges the defendant with receiving material that contained child pornography in or about December 2014, in violation of Title 18, United States Code, Section 2252A(a)(2)(B), and carries a maximum term of imprisonment of twenty years, a mandatory minimum term of imprisonment of five years.

After the guilty plea was accepted by the Court, Mr. Cruz was detained pursuant to the mandatory detention provisions of the Bail Reform Act. A presentence interview was conducted following the guilty plea and a presentence report was timely filed by the United States Probation Department.

## Proposed Sentencing Guideline Amendments

It is counsel's understanding that the United States Sentencing Commission has proposed a number of amendments to the United States Sentencing Guidelines that may, if approved, reduce the applicable advisory guideline range by 1-2 levels. Proposed amendment number one contains two parts (Part A and Part B). Part A sets forth a new Chapter Four guideline, at §4C1.1 that would provide lower guideline ranges for "first offenders" generally and increase the availability of alternatives to incarceration for such offenders at the lower levels of the Sentencing Table.

According to the Commission, the proposed amendment "is primarily informed by the Commission's multi-year study of recidivism, which included an examination of circumstances that correlate with increased or reduced recidivism. See United States Sentencing Commission, "Notice of Final Priorities," 81 FR 58004 (Aug. 24, 2016). It is also informed by the Commission's continued study of approaches to encourage the use of alternatives to incarceration. Id." The Commission is scheduled to vote on the proposed amendments in April of this year.

### **Other Scheduling Issues**

In addition to the proposed amendments, as the Court may recall, at the change of plea hearing many of Mr. Cruz's supporters were present in the courtroom and I anticipate that they will also be interested in attending the sentence hearing. Many of these individuals are college students and the proposed dates fall after the end of the Spring semester for most students.

The additional time will also allow the parties to file any objections to the presentence report that might be appropriate and to present all relevant information that will assist the Court in imposing a sentence that is sufficient but not greater than necessary pursuant to 18 U.S.C. 3553(a).

I have discussed this request with Assistant United States Attorney Shawn Crowley and she advised me that the government does not object.

Accordingly, I respectfully request that the hearing be rescheduled to a date during the week of June 26, 2017, or to a later date that is more convenient to the Court

Thank you for your consideration in this matter.

Respectfully submitted,

/s/

Steve Zissou